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Note by the Secretary-General

Addendum

Dialogue paper by indigenous peoples*

We came seeking justice on our homelands. We came here to appeal to the world at large to support our efforts to seek equitable solutions to discrimination, exploitation, racism, ethnocide and genocide of Indigenous Nations and Peoples ...

We came here to speak on behalf of the natural world being plundered by Governments and corporations. We spoke on behalf of rooted trees that could not flee the chainsaw. We spoke on behalf of salmon, herring, tuna and haddock killed in their spawning beds. We had alarming news from the Four Directions about fish, wildlife and birds, contaminated, sick and disappearing. And today we continue to speak on their behalf. Today they are more endangered than ever, and if anything, their conditions are worse.

In these times, humanity must work together, not just for survival, but for quality of life based on universal values that protect the delicate interrelatedness of life that protects us all. ... Biodiversity is a clinical, technical term for this intricate inter-weaving of life that sustains us. We indigenous peoples say that we are related to this life; thus your "resources" are our relations. It is all in how you look at it.

* Prepared by the members of the indigenous peoples' caucus of the Commission on Sustainable Development, invited as an organizing partner of the dialogue segment for indigenous people. The paper has been prepared in consultation with indigenous peoples' organizations and networks worldwide. The views and opinions expressed do not necessarily represent those of the United Nations.

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Indigenous peoples have something to offer in this equation for survival. ... We have common goals and responsibilities, and I say, that you, the leaders of this great hope of the world's people, the United Nations, should be working with us and not against us, for peace. We submit to you that as long as you make war against Etenoha (Mother Earth), there can never be peace.

– Chief Oren Lyons of the Onondaga Nation and the Haudenosaunee Confederacy[1]

Introduction

1. The present background paper submitted in preparation for the World Summit on Sustainable Development reviews developments in the past 10 years since the United Nations Conference on Environment and Development, to highlight achievements, obstacles, threats and challenges in the implementation of the Rio agreements, focusing on indigenous peoples and sustainable development. The commitments made in chapter 26 of Agenda 21[2] entitled "Recognizing and strengthening the role of indigenous people and their communities", as well as other Rio commitments, are the starting point of this assessment, and linkages are also made with the other international processes bearing on this theme.

2. Paragraph 26.1 of Agenda 21 states: "In view of the interrelationship between the natural environment and its sustainable development and the cultural, social, economic and physical well-being of indigenous people, national and international efforts to implement environmentally sound and sustainable development should recognize, accommodate, promote and strengthen the role of indigenous people and their communities."

3. Indigenous peoples are at the cutting edge of the crisis in sustainable development. Their communities are concrete examples of sustainable societies, historically evolved in diverse ecosystems. Today, they face the challenges of extinction or survival and renewal in a globalized world. One clear criterion for sustainable development and implementation of Agenda 21 must be actions taken to secure indigenous peoples' rights and welfare.

4. The past 10 years have highlighted the vital role and contributions of indigenous peoples to sustainable development. Indigenous peoples constitute 5 per cent of the world's population but embody 80 per cent of the world's cultural diversity. They are estimated to occupy 20 per cent of the world's land surface but nurture 80 per cent of the world's biodiversity on ancestral lands and territories. Rainforests of the Amazon, Central Africa, Asia and Melanesia are home to over half of the total global spectrum of indigenous peoples and at the same time contain some of the highest species biodiversity in the world. The Traditional Native American Farmers Association estimates that indigenous peoples cultivated 65 per cent of the crop varieties consumed throughout the world.

5. The past 10 years have also seen the intensification of the following conflicting trends in addressing the imbalances in social and ecological relationships that underpin the global crisis in sustainable development:

(a) The rise of economic neo-liberalism and corporate globalization and the attendant commodification and "privatization" of social and ecological values;

(b) The resurgence of indigenous peoples' movements, local communities and citizens' movements and transnational partnerships asserting the primacy of sustainable local communities and cultures and ecological integrity.

6. This conflict is evident in the disjuncture among global economic, financial and trade decisions made by the World Trade Organization, the International Monetary Fund (IMF) and the World Bank which are blocking and constricting national and local options and efforts to define flexible sustainable development paths, as encouraged in the global policy dialogue on environment and sustainable development. This lack of coherence in global policy processes is blocking the implementation of positive measures supportive of indigenous peoples' self-determination and sustainable development.

Intensifying pressures on indigenous lands

7. The accelerating processes of globalization since the United Nations Conference on Environment and Development expose the vulnerabilities of indigenous peoples when their fate is left to the logic of States and markets, without adequate protection for their rights. A laissez-faire environment of liberalized and expanding trade, investment, production and consumption is resulting in continuing land alienation and forcible displacement of indigenous peoples.

8. As the pressures on the Earth's resources intensify, indigenous peoples bear disproportionate costs from resource-intensive and resource-extractive industries and activities such as mining, oil and gas development, large dams and other infrastructure projects, logging and plantations, bioprospecting,

industrial fishing and farming, and also ecotourism and imposed conservation projects. These pressures also accelerate some unsustainable economic activities carried out by indigenous peoples themselves, notably in cases where indigenous rights have not been respected, thus leaving communities with insufficient land and resources.

9. Contrary to Agenda 21, which states that the lands of indigenous peoples should be protected from activities that are either environmentally unsound or considered by indigenous peoples to be socially and culturally inappropriate, the growth in the global economy has accelerated the intrusion of transnational corporations in ancestral lands and communities. The World Bank and the regional development banks play a key role in promoting mining and other extractive industries and in promoting the macroeconomic fiscal, institutional and legal reforms that facilitate international investment in extractive industries in developing countries. In the case of the World Bank, this is done through programmatic lending, structural and sectoral adjustment lending, project loans to national Governments, equity investments and loans to private sector operators through the International Finance Corporation and by providing political risk insurance through the Multilateral Investment Guarantee Agency (MIGA).

10. In Alaska, the 1.5 million-acre coastal plain of the Arctic National Wildlife Refuge (ANWR) is under clear threat of oil exploration pending legislation that would undermine the Refuge's currently protected status. This area is the birthplace of the porcupine caribou herd, upon which the subsistence, culture and way of life of the Gwich'in Athabascan peoples of Alaska and Canada depend.

11. In central Oklahoma, United States of America, the very existence of the Kickapoo Nation and the health of their land and water resources are under threat by an impending North American North-South superhighway from Canada to Mexico, part of which will run through the reservation of the Kickapoo. Under the auspices of the North American Free Trade Agreement (NAFTA), plans for the superhighway have been under way for four years, yet the United States has failed to formally discuss these plans with the Kickapoo Nation.

12. Mining exploration and development in the Philippines, Indonesia, India, Peru, Guyana, Colombia, Ghana and many other countries are a serious threat to indigenous peoples and local communities.

13. The revival of the Bakun Dam in Malaysia, which requires the clear-cutting of 80,000 hectares of rainforests, and the forced displacement of 5,000-8,000 indigenous persons from 15 communities, is a prime example of unsustainability, in the light of preferable energy options.

14. The biggest challenge faced by indigenous peoples and communities in relation to sustainable development is to ensure territorial security; the legal recognition of our ownership and control over customary land and resources; and the sustainable utilization of our land and other renewable resources for our cultural, economic and physical health and well-being.

15. Indigenous peoples have acted vigorously to overcome these threats by mobilizing locally and internationally to stop destructive projects in the short term, and to address the underlying causes of resource conflicts in the longer term. An International Conference on Conflict Resolution, Peace-building, Sustainable Development and Indigenous Peoples,[3] attended by indigenous participants from all global regions, affirmed the importance of being self-determining: in the care for mother earth, in the languages spoken, in the education of our children, in conflict resolution and in the renewal of the institutions and values of our ancestors.

16. In many countries, indigenous peoples have successfully halted some destructive projects. Indigenous communities have stopped mining development in the Philippines, Panama and Norway, through local protest actions, media exposure, campaigns aimed at shareholders and investors, and court action. The Innu have stopped the building of a new North Atlantic Treaty Organization (NATO) base on their lands.

17. Communities in the Amazon basin have become knowledgeable about the impacts of oil development and have organized themselves for informed engagements with oil companies ranging from community opposition to dialogue and negotiations. After learning of the devastating impacts of oil extraction in other provinces of Ecuador, the Quichua of Sarayacu gathered in assemblies recognized as valid by the Government of Ecuador to discuss the environmental and cultural threats posed by the oil

industry. The primary result was a formal resolution to unequivocally reject oil development. Following this resolution, promises of "unconditional" economic support provoked divisions within the communities and led to the effecting of signed agreements with individuals rather than with the appropriate representatives of the Quichua communities, thereby undermining the Quichua's legitimate and democratically chosen leadership.

18. In Mindoro island in the Philippines, long-standing Mangyan indigenous organizations with pending ancestral land claims over an area likewise claimed by Mindex/Crew Development found that the State agency responsible for indigenous affairs, the National Commission on Indigenous Peoples (NCIP), had worked with the company to establish a new indigenous organization supportive of the mining project, in return for the promise of recognition of ancestral land rights in the same area.[4]

19. Negotiations between indigenous communities, Governments and corporations are more likely to occur in countries with a clear legal framework for indigenous rights. Furthermore, transitions from military regimes to democratic Governments also provide the political space for the introduction and recognition of indigenous rights. In a number of countries, peace agreements have been concluded between Governments and indigenous peoples, including Guatemala, the Philippines, north-east India and the Chittagong Hill Tracts in Bangladesh. There remain many countries, however, where indigenous peoples suffer from militarization and government control.

20. Longer-term security for indigenous peoples requires legal recognition of their rights to ownership and control of their lands, territories and natural resources. Many indigenous communities are mapping their traditional lands and territories, initiating processes for cultural renewal and community strengthening, and this is serving as a basis for government recognition of their lands and customary use. Gains have been made, for example, in Malaysia, Thailand, Indonesia and the Philippines in Asia; in Venezuela, Guyana, Peru and Brazil in Latin America; and in South Africa, Botswana and Namibia in Africa. The Russian Government has passed a law recognizing and protecting areas of traditional land use.

21. These important gains are often overshadowed by the widespread violations of indigenous land rights in the development process. The Special Rapporteur of the Commission on Human Rights, Mrs. Erica-Irene Daes, in her final working paper on indigenous peoples and their relationship to land (E/CN.4/Sub.2/2001/21), put forward a framework for the analysis of contemporary problems regarding indigenous land rights, highlighting:

- Failure of States to acknowledge indigenous rights to lands, territories and resources;
- Discriminatory laws and policies affecting indigenous peoples in relation to their lands;
- Failure of States to demarcate indigenous lands;
- Failure of States to enforce or implement laws protecting indigenous lands;
- Problems in regard to land claims and return of lands;
- Expropriation of indigenous lands for national interests, including development;
- Removal and relocation of indigenous peoples;
- Other government programmes and policies adversely affecting indigenous peoples' relationship to their lands, territories and resources;
- Failure to protect the integrity of the environment of indigenous lands and territories.

International standards on the rights of indigenous peoples

22. Indigenous peoples' rights have assumed an important place in international human rights law. This body of law is still expanding and developing through indigenous advocacy in international forums; through the decisions of international human rights bodies; through the recognition and codification of indigenous rights in international instruments currently under consideration by the United Nations and the Organization of American States (OAS); through the incorporation of indigenous rights into conservation, environmental and development-related instruments and policies; through the incorporation of these rights into domestic law and practice; and through domestic judicial decisions.[5] Indigenous rights have attained the

status of customary international law and are therefore generally binding on States. International law recognizes the rights of indigenous peoples:

- To self-determination;
- To ownership, control and management of their traditional territories, lands and resources;
- To exercise their customary law;
- To represent themselves through their own institutions;
- To free, prior and informed consent to developments on their land;
- To control, and share in the benefits of the use of, their traditional knowledge.

23. Self-determination for indigenous peoples means "the right to control over their institutions, territories, resources, social orders, and cultures without external domination or interference, and their right to establish their relationship with the dominant society and the State on the basis of consent".[6]

24. International bodies mandated with protection of human rights have paid particular attention to indigenous rights in recent years. The United Nations Committee on the Elimination of Racial Discrimination, the United Nations Human Rights Committee, the International Labour Organization (ILO) Committee of Experts, and the Inter-American Commission on Human Rights all stand out in this respect. These bodies have contributed to the progressive development of indigenous rights by interpreting human rights instruments of general application in such a way as to account for and protect the collective rights of indigenous peoples. Even the African Commission on Human and Peoples' Rights, has begun to address indigenous peoples' rights by taking the important step of establishing a Working Group on Indigenous Peoples in Africa.[7]

25. Their recent judgements and decisions provide important guidance for States and corporations about meeting their human rights obligations with respect to indigenous peoples.

26. The Subcommission on the Promotion and Protection of Human Rights approved the draft United Nations declaration on the rights of indigenous people in 1994. All Governments, in furtherance of their Rio commitments and human rights obligations, must move towards its early adoption by the General Assembly. This is a major political goal within the International Decade of the World's Indigenous People (1995-2004), and an important activity under Agenda 21. Its achievement will signal a real openness and seriousness by Governments with respect to entering into a "New partnership" with indigenous peoples for sustainable development.

27. The absence of universally agreed standards on the rights of indigenous peoples is a major obstacle to fully empowering indigenous peoples to play their role in sustainable development. It was noted by the Secretary-General in his mid-term report on the programme activities of the International Decade of the World's Indigenous People (A/54/487 and Add.1) that "No universal standards on indigenous peoples guide the United Nations as a whole, and in practice, United Nations organizations are either not adopting any particular guidelines or else are developing guidelines on the basis of different procedures" (para. 8).

28. The processes leading to the adoption of the draft United Nations declaration on the rights of indigenous people enjoyed the open and full participation of indigenous peoples, Governments, international organizations and scholars; and resulted in its broad endorsement as comprising the minimum standards for securing the rights and well-being of indigenous peoples. In the words of the United Nations High Commissioner for Human Rights:[8]

> "The United Nations draft declaration states the link between human rights and development, namely, that the one is not possible without the other. Thus, economic improvements cannot be envisaged without protection of land and resource rights. Rights over land need to include recognition of the spiritual relation indigenous peoples have with their ancestral territories. And the economic base that land provides needs to be accompanied by a recognition of indigenous peoples' own political and legal institutions, cultural traditions and social organizations. Land and culture, development, spiritual values and knowledge are as one. To fail to recognize one is to fail on all."

29. The United Nations General Assembly, at its fifty-fifth session, welcomed the decision of the Economic and Social Council to establish a Permanent Forum on Indigenous Issues, as a subsidiary organ of

the Council. At its substantive session of 2001, the Council decided that the Forum would meet for the first time in May 2002. Its broad mandate, which covers indigenous issues in the context of social and economic development, the environment, education, health and human rights and culture, makes the Forum potentially a very important focus for promoting indigenous peoples' rights-based sustainable development.

30. Other organizations in the United Nations system such as the United Nations Development Programme (UNDP), the United Nations Educational, Scientific and Cultural Organization (UNESCO), the World Health Organization (WHO) and the World Intellectual Property Organization (WIPO) have also adopted policies and programmes on indigenous peoples.

31. The Commission on Human Rights has recently appointed a Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous People (Commission resolution 2001/57). His first report, due in 2002, will complement other special studies that have been completed on subjects including protection of the heritage of indigenous peoples (1995); treaties, agreements and other constructive arrangements between indigenous peoples and States (1999); and indigenous peoples' relationships to land (2001).

On prior informed consent

32. In a context of increasing recognition of the rights to self-determination of indigenous peoples, the principle of free, prior and informed consent of indigenous peoples to development projects and plans affecting them has emerged as the standard to be applied in protecting and promoting their rights in the development process.

33. Article 7 (1) of ILO Convention No. 169 (Convention concerning Indigenous and Tribal Peoples in Independent Countries)[9] provides that:

> "The people concerned shall have the right to decide their own priorities for the process of development as it affects their lives, beliefs, institutions and spiritual well-being and the lands they occupy or otherwise use, and to exercise control, to the extent possible, over their own economic, social and cultural development."

34. This article is one of the general principles of the Convention and provides a framework within which other articles can be interpreted. Other general principles of the Convention require participation, consultation and negotiation in good faith.

35. In its 1997 General Recommendation on the rights of indigenous peoples,[10] the Committee on the Elimination of Racial Discrimination elaborated on State obligations and indigenous rights under the International Convention on the Elimination of All Forms of Racial Discrimination.[11] The Committee called upon States parties to "ensure that members of indigenous peoples have equal rights in respect of effective participation in public life and that no decisions directly relating to their rights and interests are taken without their informed consent" (para. 4 (d)).

36. In the concluding observations on the report from Australia, the Committee reiterated in 2000 "its recommendation that the State party should ensure effective participation by indigenous communities in decisions affecting their land rights, as required under article 5 (c) of the Convention and General Recommendation XXIII of the Committee, which stresses the importance of ensuring the 'informed consent' of indigenous peoples".[12]

37. Building upon these principles, article 30 of the United Nations draft declaration on the rights of indigenous peoples acknowledges that:

> "Indigenous Peoples have the right to determine and develop priorities and strategies for the development or use of their lands, territories and other resources, including the right to require that States obtain their free and informed consent prior to the approval of any project affecting their lands, territories and other resources particularly in connection with the development, utilization or exploitation of mineral, water or other resources".

38. In the Philippines free, prior and informed consent of indigenous peoples is required by law for the following activities: exploration, development and use of natural resources; research and bioprospecting; displacement and relocation; archaeological explorations; policies affecting indigenous peoples like Executive Order 263 (Community-based Forest Management); and entry of military.

39. The definition of prior informed consent in the Indigenous People's Rights Act of the Philippines provides:

- That all members of the community affected consent to the decision;
- That consent is determined in accordance with customary laws and practices;
- For freedom from external manipulation, interference or coercion;
- For full disclosure of the intent and scope of the activity;
- That the decision is made in a language understandable to the community;
- That the decision is made in a process understandable to the community.

40. In the coming years, a better understanding of this standard and its application will be important for the implementation of sustainable development programmes with indigenous peoples.

Indigenous peoples in global environmental negotiations

41. It is not surprising that indigenous issues have figured prominently in the policy deliberations and negotiations to implement the Rio agreements on biodiversity, climate change, desertification, sustainable forest management, persistent organic pollutants and hazardous wastes, as well as in other debates on trade liberalization, intellectual property rights, debt and structural adjustment and financing for development.

Cultural and biological diversity

42. The Convention on Biological Diversity[13] recognizes the traditional knowledge of indigenous peoples and local communities, and has developed a cross-cutting work programme on traditional knowledge and on the subjects of other related articles of the Convention.

43. The Conference of the Parties to the Convention on Biological Diversity, at its fourth meeting, established an Ad Hoc Open-ended Intersessional Working Group on the implementation of article 8 (j) and related provisions of the Convention on traditional knowledge (decision IV/9). The fact that the creation of this body was effected with the support of many Governments and strong lobbying by indigenous peoples' organizations makes it potentially a significant forum for policy exchanges and policy formulation.

44. The Convention on Biological Diversity as such affords indigenous peoples very limited and weak protection for their cultural and intellectual property. The Convention does not seek to challenge the legitimacy or the operation of intellectual property law, and merely recognizes that intellectual property rights can act to assist Governments in the conservation of biological diversity. Another main weakness within the Convention is the strong emphasis on national sovereignty over biodiversity, without adequate recognition for indigenous territories. Provisions for benefit-sharing would also rely on Governments to recognize and enforce this right.

45. Some advances can be made primarily through national legislation and regional frameworks (for example, the Andean Pact). Gains can be made here in terms of strengthening prior informed consent of indigenous peoples, and raising awareness and understanding of sui generis arrangements to strengthen the control exercised by indigenous peoples. Of course, these positive steps can be taken independently of the Convention, by Governments serious about indigenous peoples' rights.

46. The Conference of the Parties to the Convention, at its fifth meeting (decisions V/16 and 26), decided on:[14]

- Recognition of the importance of the participation of indigenous peoples and local communities from the local to the international level in a wide variety of Convention work programmes;
- Recognition of the special roles of women from indigenous peoples and local communities with regard to the conservation of biodiversity;
- Recognition of the role of the International Indigenous Forum on Biodiversity as an advisory body of the Conference of the Parties to the Convention;
- Promotion of the nomination of members of indigenous peoples and local communities to the international roster of experts;

- Promotion of indigenous delegates within official delegations of Convention processes;
- Continuation of the Ad Hoc Open-ended Intersessional Working Group on Article 8 (j) and Related Provisions of the Convention on Biological Diversity concerning traditional knowledge;
- Creation of an Ad Hoc Open-ended Working Group on Access and Benefit-sharing which would recognize the participation of indigenous peoples and local communities and the principle of prior informed consent to any potential use of their knowledge.

47. Efforts must be made to ensure implementation of Convention obligations through national biodiversity strategies and action plans, with the full and effective participation of indigenous peoples.

48. The Convention on Biological Diversity through its work programmes and processes has been innovative in addressing the concerns of indigenous peoples. Its ecosystem approach accords well with indigenous realities and allows substantive participation in its work programmes. The linkages between the Convention and other environmental conventions can work to address some inconsistencies in the narrower econometric or technocratic approaches of the climate negotiations.

On climate change and indigenous peoples

49. In the global climate negotiations, indigenous peoples have expressed concerns that current discussions within the United Nations Framework Convention on Climate Change,[15] as well as the practical implementation of the Kyoto Protocol[16] to the Convention, do not provide for their adequate participation. They are profoundly concerned that the measures to mitigate climate change currently being negotiated, such as plantations, carbon sinks and tradable emissions, will result in projects that adversely impact upon their natural, sensitive and fragile ecosystems, contaminating soils, forests and waters, which already perform important climate functions.

50. They are concerned that the current proposed definitions of afforestation, deforestation, and reforestation pose a threat to the traditional uses of indigenous peoples of their lands and territories. In the past, even well-intentioned development policies and projects have resulted in disastrous social and ecological consequences. Under the United Nations Framework Convention on Climate Change, the technocratic concepts, policies and measures being negotiated fail to consider the best interests of indigenous peoples.

Global policy dialogue on forests[17]

51. Emerging United Nations standards related to forests affirm:

(a) Secure land rights for indigenous people;

(b) Full participation in forest policy-making;

(c) Recognition of traditional forest-related knowledge;

(d) Promotion of community-based forest management.

52. In practice, both large-scale logging and plantations have commonly been carried out in violation of these rights and principles. The land rights of indigenous peoples in forests are commonly denied and resistance to forestry development has often been met with further human rights violations. The undermining of forest-based livelihoods, impoverishment, the erosion of cultural identity, dispossession and increased mortalities are all widely documented as results of forest exploitation. Indigenous women have suffered particular hardships and human rights abuse.

53. Recent forestry "best practice" asserts indigenous peoples' rights, and prioritizes well-being, community control of forests and forestry decision-making. Efforts to promote reforms through independent third-party certification have had mixed results. Successes have been achieved in recognition of indigenous use rights and in promoting community-based management in boreal forests. In the tropics, best practice cases are more rare, frustrated by lack of good governance, absence of law and order, and inadequate forestry regulations.

54. New technologies are helping forest-based indigenous peoples to map their own lands, assert their land claims and develop novel forest management systems based on traditional forest-related knowledge

and customary law. However, repressive States are now seeking to outlaw such techniques and retain forests for the use of large-scale companies.

55. In many countries, translating agreed international human rights and forestry standards into practice will require that private sector companies operate according to higher standards than national laws require. If private sector companies seek to operate in areas claimed by indigenous peoples, they must respect customary rights holders as the legitimate owners of the land and accept the principle that the local communities have the right to free, prior and informed consent to whatever is planned in their lands and forests. A commitment to enter into negotiated and legally binding agreements between private sector operators and indigenous peoples will help restore equitable relations between developers and forest-based indigenous communities.

56. In the longer term, national policy, legal and institutional reforms will all be required to secure indigenous peoples' rights and ensure a future for forests based on the principles of justice and equity.

57. Taking into account the specific demands and proposals for action presented by indigenous peoples to the Commission on Sustainable Development, the following proposals have not been accepted by the intergovernmental process:[18]

(a) Self-determination and self-development;

(b) Recognition as distinct "peoples";

(c) Explicit recognition of the right to own, use and control territories;

(d) Prior informed consent for activities and decisions affecting indigenous territories;

(e) Mainstreaming of the draft declaration on the rights of indigenous people into Agenda 21 and the Non-Legally Binding Authoritative Statement of Principles for a Global Consensus on the Management, Conservation and Sustainable Development of All Types of Forests (Forest Principles)[19] and national forest programmes;

(f) Funding to support indigenous peoples' participation in United Nations forums.

Traditional production and trade and conservation

58. In recent years, customary production and economic activities by indigenous peoples have been damaged by conservation approaches that fail to work with the indigenous peoples and local communities concerned. Traditional activities like the sustainable hunting and harvesting of marine mammals by the Arctic peoples and rotational swidden agriculture by the forest peoples in Asia, Latin America and the Pacific are important for the livelihoods and well-being of communities, and have been proved historically to be socially and ecologically sustainable.

59. Following years of negative lobbying campaigns by conservation organizations in Europe, the sealskin industry has collapsed, with devastating impacts on the Inuit. Sale of sealskins was once the main source of cash income for many Inuit families and seal hunting was central to traditional culture and values. The loss of this revenue has been catastrophic, beyond its economic impacts, including negative social, cultural, nutritional and psychological effects.

60. The right of the Inuit to continue this traditional sustainable harvesting activity must be recognized and strategies developed to revitalize and restore the Arctic sealing industry.[20]

61. The catch phrase "slash and burn agriculture" has been applied indiscriminately to undermine varied systems of indigenous rotational agriculture in forested and hilly areas through the invocation of an image of environmental destruction. Historical and current research, including studies done by indigenous researchers, has shown this to be a sustainable and adaptive system capable of changing to suit differing circumstances while remaining loyal to the idea of self-reliance in food production. It is often combined with the wet rice paddy, animal husbandry, specialized cropping, kitchen gardens, hunting and agroforestry to supply the needs of indigenous villages.[21]

62. Support must be given for land recovery, renewal and strengthening of traditional production systems, which have contributed to biodiversity, including its conservation and sustainable use.

63. Likewise, support must be given to indigenous peoples' programmes to conserve the biodiversity and manage the resources within their lands and territories. This includes support for indigenous peoples in their

efforts to protect and/or collect their traditional knowledge, practices, seeds and other resources through: (a) effective use of their own in situ methods and institutions and (b) access to and effective use of non-indigenous technologies.

64. Native seeds and other foods that are essential to the survival of indigenous peoples are threatened by the development, cultivation and other use of genetically modified seeds, plants, fish and other organisms.

Sustainable agriculture and rural development

65. Agenda 21 maintains that two of the various elements that will determine the success of sustainable agriculture and rural development are land conservation and the participation of rural people. Indigenous peoples carry millennial knowledge founded upon hunting and agricultural practices that have existed for generations, land management and sustainable water use, and agriculture-related engineering and architecture. The maintenance of these cultural and spiritual relationships with the natural world are key to their survival as peoples or civilizations. The Mayans are the "corn people", while Gwich'in Athabascans are the "caribou people". Traditional clan systems include the Bear, the Eagle and even the Sweet Potato Clans among Seminole people.

66. The maintenance of these cultural and spiritual relationships is also vital to the conservation of biodiversity. This historical interdependence and relationship with specific ecosystems underpin the technical and scientific contributions of indigenous knowledge to critical research related to sustainable development based on an ecosystem approach. Many traditional practitioners are experts at reading indicator species that provide very early warning signals of coming environmental or food catastrophes and meteorological changes such as global warming.

67. In nations of the Pacific, such as Tuvalu and Kiribati, which mainly comprise low-lying coral atolls, underground freshwater sources are being displaced by sea water as the sea level rises. The Dayaks of Kalimantan have noticed a dramatic decline of their rice paddy fields over the last seven years with annual production down to below one ton per hectare, owing to the disappearance of order in the rainy and dry seasons. Severe storms and hurricanes in Central America have killed hundreds of people and destroyed the villages and livelihoods of the Mayas, Garifunas and Nahuals. In the Amazon rainforest, indigenous peoples and local communities have noticed the decrease in rain levels and the extension of the dry season. Frequent droughts and the decrease of rain have increased forest fires, affecting hunting, fishing, and overall food security. In Burkina Faso, droughts have become more frequent and changes in the rainy season are disrupting local agricultural systems. In Rwanda, the extended drought causes thirsty insects to attack tree species used for food. Loss of biodiversity has decreased species used for food, medicines and rituals. In many countries, sicknesses such as malaria have become endemic owing to the increase of insect vectors.

68. Such detailed local knowledge complements and contributes to scientific work on climate. For example, indigenous peoples in the Arctic region are contributing to research on the impacts of climate change through the Arctic Climate Impact Assessment (ACIA) recently adopted by the Arctic Council.[22]

Regional and ecosystem approaches

69. The Arctic Council is a high-level forum of the Governments of the eight Arctic States (United States of America, Canada, Denmark/Greenland, Iceland, Norway, Sweden, Finland and the Russian Federation) and is charged with working out appropriate ways forward for environmental protection and sustainable development in the Arctic. The Arctic Council includes several indigenous peoples' organizations, including the Inuit Circumpolar Conference, the Saami Council and the Russian Association of Indigenous Peoples of the North, as permanent participants. The Arctic Climate Impact Assessment was formally adopted and launched by the Arctic Council in October 2000. The Assessment will be documented in three volumes due to be published in 2004 and will address the question of what strategies can be recommended to cope with and adapt to current and future environmental stresses, and possibly lessen the impacts of these changes in climate and ultraviolet radiation. These recommendations will include advice relevant to national and international policy as well as advice to inhabitants of the Arctic. Of special concern to

indigenous peoples are key chapters on indigenous perspectives on climate change and on the impacts of climate change on the uses of living marine and terrestrial resources. ACIA represents one of the most promising ways the Arctic Council can bring Arctic voices to the forthcoming World Summit on Sustainable Development as well as the perspectives of indigenous peoples into global climate change negotiations.

70. Indigenous peoples in the Amazon are likewise calling for the treatment of the Amazon basin as a unique ecosystem requiring cooperation by Governments, indigenous peoples, civil society organizations and other interested parties, for the purposes of sustainable development and conservation.

71. Positive lessons from the Arctic Council experience can be learned for broader application in other global regions, using an ecosystem approach and collaborative partnerships.

Health issues

72. From a traditional perspective, the health of indigenous peoples cannot be separated from the health of their environment, the practice of their spirituality and the exercise of the right to self-determination, upon which the mental, physical and social health of indigenous communities is based.

73. Indigenous peoples suffer some of the worst health and mortality rates in the world. In the north-eastern United States and Canada, Mohawk women carry over 10,000 parts/million of polychlorinated biphenyls in their bodies, and pass these chemicals along to their infants in the womb and to their children through their breast milk. Native infant mortality is double the national average, and poverty levels continue to be extremely high.

74. The incidence of suicide among indigenous peoples is disturbingly high in Brazil, Alaska, Canada and other communities facing rapid change and loss of land and identity. The Uwa people in Colombia see collective suicide as an appropriate response to unwanted oil development in their territories, which threatens community integrity and well-being.

75. The herbicide application programme in Colombia designed by the United States and Colombia to eradicate coca and poppy (as part of a multifaceted anti-narcotics initiative known as "Plan Colombia") is adversely impacting the health of the indigenous population and the safety of their crops, livestock, water supply and environment. These impacts are sufficiently severe to warrant the contention that Plan Colombia violates indigenous rights to life, health, sustenance, food and property as well as the customary international right to a clean and healthy environment.

76. Numerous written, visual and oral data indicate that humans in Colombia and Ecuador exposed to the spray mixture used for the aerial fumigation programme in Colombia have complained of gastrointestinal disorders (including severe bleeding, nausea and vomiting), testicular inflammation, severe fevers, dizziness, respiratory ailments, skin rashes, and serious eye irritation, after spraying occurred. Reliable sources have also noted birth defects, miscarriages and deaths of infants and children.

77. Similarly, numerous written, visual and oral data indicate that exposure to the spray mixture used in the programme to eradicate coca and poppy plants in Colombia has caused the eradication of yucca, corn, plantains, tomatoes, sugar cane, grass for livestock grazing, and other legal crops, the destruction of fruit trees, and the death of livestock. Exposure to the spray mixture has also contaminated water supplies and killed fish.

78. Despite the serious health risks posed by this programme, the United States and Colombian Governments have failed to disclose the exact composition of the spray mixture; and specific details about how and by what means the spraying occurs; nor have they given sufficient notice to the indigenous and other affected populations as to when spraying will occur and what advance preparation is necessary to assure safety.

79. The Inuit and other northern aboriginal peoples are concerned with the contamination of their food by persistent organic pollutants (POPs), most of which come from temperate and tropical lands and are transported to the Arctic. The Inuit were also active in recent negotiations on the Stockholm Convention on Persistent Organic Pollutants.

National developments in recognizing the rights of indigenous peoples

80. The full benefits of these international standard-setting activities will be realized for indigenous

peoples and communities if they are adopted and enshrined in national constitutions and other legislative and administrative provisions. National laws in a number of countries have been changing to reflect contemporary norms of indigenous rights — in many Latin American countries, Australia, Canada, New Zealand, India, the Philippines, Finland and the Russian Federation, to name a few. Fourteen countries have signed ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries. However, the lack of recognition of indigenous peoples remains an obstacle in many countries in Asia and Africa.

Corporate globalization and sustainability of indigenous communities

81. The global ascendancy of neo-liberal economics and the entrenchment of corporate power in international and national affairs constitute a threat to society and nature. It has deepened inequalities between and within nations, and undermined efforts towards sustainable development.

82. The World Trade Organization Agreement on Trade-related Aspects of Intellectual Property Rights[23] is an obstacle and threat to indigenous knowledge, through the harmonization of uniform intellectual property rights regimes; and it allows the patenting of life forms, for micro-organisms and non-biological and microbiological processes of the production of plants and animals.

83. The World Trade Organization Agreement on Agriculture,[23] which promotes export competition and import liberalization, has allowed the entry of cheap agricultural products into indigenous peoples' communities, thereby compromising their sustainable agricultural practices, food security, health and cultures. Small-scale farm production is giving way to commercial cash-crop plantations, further concentrating ancestral lands into the hands of a few agri-corporations and landlords. The conversion of small-scale farming to cash-crop plantations has further caused the dislocation of many community members in their move from rural to urban areas.

84. National legislation compliant with World Trade Organization agreements combined with the liberalization of trade and investment regimes promoted by the World Bank and the International Monetary Fund (IMF) is undermining national legislation and regulations protecting indigenous rights and the environment.

85. Privatization and structural adjustments bring both short- and long-term negative impacts to indigenous peoples in developing countries, some of which are irreversible. The privatization of water turns a sacred element essential to our agriculture-related spiritual practices into a privately controlled commodity. Structural reforms are too heavy a burden for our communities to bear after centuries of imposed land appropriation and its resulting impoverishment, as well as accumulated damage to our ecosystems and to our rich but endangered agricultural practices and knowledge.

Recommendations

86. The majority of the specialized issues examined within the United Nations system in particular are integrally related to one another, and therefore require harmonization in both policy negotiation and implementation.

87. Therefore, the agenda for the 10-year review of progress achieved in the implementation of the outcome of the United Nations Conference on Environment and Development should allow for action-oriented discussion to address the forces that have caused the Commission on Sustainable Development to take backward rather than forward steps towards sustainable development. Among those forces are globalization, privatization and the growing dominance of industry within the United Nations and global governance.

88. We look forward to a constructive phase of action towards achieving the sustainable development goals set out for the world community in 1992. We pray that it is a phase characterized by political will, and a true understanding of the interrelatedness of all life forms, across many generations of life on Earth.

Notes

[1] From the speech of Chief Oren Lyons to the United Nations Working Group on Indigenous Populations at its fifteenth session, held in Geneva 1997, commemorating the 20-year anniversary of the first International NGO Conference on Indigenous Peoples in the Americas that was held in 1977, under the auspices of the Commission

on Human Rights. That meeting was an important milestone in the struggles of indigenous peoples to highlight their issues on the international stage.

[2] *Report of the United Nations Conference on Environment and Development, Rio de Janeiro, 3-14 June 1992*, vol. I, *Resolutions Adopted by the Conference* (United Nations publication, Sales No. E.93.I.8 and corrigendum), resolution 1, annex II.

[3] See Tebtebba Foundation, "Highlights of the International Conference on Conflict Resolution, Peace-building, Sustainable Development and Indigenous Peoples", 6-8 December 2000 (http://www.tebtebba.org/about_us/publications/special/special.htm).

[4] Mindoro case study, Philippines Indigenous Peoples Links, December 2001(http://www.minesand communities.org/Aboutus/pipelinks.htm).

[5] Fergus Mackay, "Universal rights or a universe unto itself? indigenous peoples' human rights and the World Bank's draft operational policy 4.10 on indigenous peoples", draft discussion paper 03, September 2001.

[6] Howard Berman, "The development of international recognition of the rights of indigenous peoples", document 74 (Copenhagen, International Work Group for Indigenous Affairs and the Centre for Development Research, 1993).

[7] The African Commission on Human and Peoples' Rights, at its twenty-eighth ordinary session, adopted the resolution on the rights of indigenous people/communities in Africa, Cotonou, Benin, 6 November 2000. The mandate of the Working Group as described in the resolution is to examine the concept of indigenous people and communities in Africa; to study the implications of the African Charter of Human and Peoples' Rights for the well-being of indigenous communities, especially with regard to: the right to equality (articles 2 and 3); the right to dignity (article 5); protection against domination (article 19); self-determination (article 20); and the promotion of cultural development and identity (article 22); and to consider appropriate recommendations for the monitoring and protection of the rights of indigenous communities.

[8] Mary Robinson, "Bridging the gap between human rights and development: from normative principles to operational relevance", Presidential Fellows Lecture, 3 December 2001, World Bank, Washington, D.C.

[9] See ILO, *International Labour Conventions and Recommendations, 1977-1995*, vol. III (Geneva, International Labour Office, 1996), sect. I.

[10] *Official Records of the General Assembly, Fifty-second Session, Supplement No. 18* (A/52/18), annex V.

[11] General Assembly resolution 2106 A (XX), annex.

[12] See *Official Records of the General Assembly, Fifty-fifth Session, Supplement No. 18* (A/55/18), chap. III, para. 32.

[13] See United Nations Environment Programme, *Convention on Biological Diversity* (Environmental Law and Institution Programme Activity Centre), June 1992.

[14] See Paul Oldham, "Negotiating diversity: a field guide to the decisions of COP5 of CBD", manuscript, 2001.

[15] United Nations, *Treaty Series*, vol. 1771, No. 30822.

[16] FCCC/CP/1997/7/Add.1, decision 1/CP.3, annex.

[17] See Marcus Colchester, thematic paper prepared for a workshop on "Indigenous peoples, private sector natural resource, energy and mining companies and human rights", organized by the Office of the United Nations High Commissioner for Human Rights, 5-7 December 2001.

[18] See Tom Griffiths, "Consolidating the gains, indigenous peoples' rights and forest policy-making at the United Nations", Forest Peoples Programme, 12-21 December 2001.

[19] *Report of the United Nations Conference on Environment and Development, Rio de Janeiro, 3-14 June 1992*, vol. I, *Resolutions Adopted by the Conference* (United Nations publication, Sales No. E.93.I.8 and corrigendum), resolution 1, annex III.

[20] See Rosemary Kuptana, Inuit Circumpolar Conference (ICC), "ICC and Indigenous Economic Development", presented at seminar on "Indigenous Peoples Production and Trade", Nordic Council of Ministers, Copenhagen, 1996.

[21] See Inter-Mountain Peoples Education and Culture in Thailand (IMPECT), "Traditional agricultural practices for the indigenous peoples of northern Thailand", Chiang Mai, Thailand, 1998.

[22] Mark Nuttall, "Indigenous peoples and climate change research in the Arctic", University of Aberdeen, Aberdeen, Scotland.

[23] See *Legal Instruments Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations, done at Marrakech on 15 April 1994* (GATT secretariat publication, Sales No. GATT/1994-7.)